

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

)
) No. 03 MDL 1570 (RCC)
) ECF Case
)

This document relates to:

BURNETT, *et al.* v. AL BARAKA INVESTMENT & DEVELOPMENT CORP., *et al.*, Case No. 03-CV-5738;
CONTINENTAL CASUALTY CO., *et al.* v. AL QAEDA ISLAMIC ARMY, *et al.*, Case No. 04-CV-05970;
EURO BROKERS, INC., *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07279;
FEDERAL INSURANCE CO., *et al.* v. AL QAIDA, *et al.*, Case No. 03-CV-6978;
NEW YORK MARINE AND GENERAL INSURANCE CO. v. AL QAIDA, *et al.*, Case No. 04-CV-6105;
ESTATE OF O'NEILL, *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-1923;
TREMSKY, *et al.* v. OSAMA BIN LADEN, *et al.*, Case No. 02-CV-7300; and
WORLD TRADE CENTER PROPERTIES LLC, *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07280.

**DECLARATION OF ALAN R. KABAT
IN SUPPORT OF DEFENDANT SHAHIR A. BATTERJEE'S
CONSOLIDATED MOTION TO DISMISS**

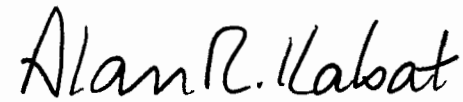
I am an attorney licensed to practice in the District of Columbia and am admitted *pro hac vice* in this matter. I am with the law firm of Bernabei & Katz PLLC, counsel to Shahir A. Batterjee. I submit this declaration to transmit to the Court the following documents submitted in support of Mr. Batterjee's Consolidated Motion to Dismiss:

1. Exhibit 1 to Mr. Batterjee's motion to dismiss is a copy of the Declaration of Shahir A. Batterjee (April 7, 2004).
2. Exhibit 2 to Mr. Batterjee's motion to dismiss is a copy of Process Server Network, "International," online at <http://www.processnet1.com/internat.htm> (last modified Feb.

10, 2004).

3. Exhibit 3 to Mr. Batterjee's motion to dismiss is a copy of Process Server Network, "Saudi Arabia," online at http://www.processnet1.com/saudi_arabia.htm (last modified Mar. 8, 2004).

I declare under the penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on September 4, 2005.

Handwritten signature of Alan R. Kabat in black ink.

ALAN R. KABAT

Exhibit 1

Shahir A. Batterjee's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

03 MDL No. 1570 (RCC)

THOMAS E. BURNETT, SR., *et al.*,

Plaintiffs,

v.

C.A. No. 03 CV 9849 (RCC)

AL BARAKA INVESTMENT AND DEVELOPMENT
CORPORATION, *et al.*,

Defendants.

DECLARATION OF SHAHIR A. BATTERJEE

I, Shahir A. Batterjee, being duly sworn, declare and state as follows:

1. I am over 18 years of age and competent to testify to the matters set forth below of my own personal knowledge.
2. I have been informed by my attorney that I am a defendant (D67) in the above-captioned action. I am submitting this declaration in support of my Motion to Dismiss for lack of personal jurisdiction and improper service of process.
3. I was born on March 5, 1948 in Jeddah, Saudi Arabia, and have lived in Saudi Arabia all of my life, except for when I was studying at college from the late 1960s to 1970. I have always been a citizen of the Kingdom of Saudi Arabia.
4. I am a businessman, and have worked for Abdulraoof Batterjee & Sons from 1977 to the present. I am not the owner of that company. I became the financial director in 1992. Abdulraoof Batterjee & Sons engages in the retail trade of health care and pharmaceutical

products.

5. I earned a B.A. in Mathematics at Whittier College (California) in 1970. Since that time, I have visited the United States on a number of occasions, initially for vacation visits, and later for combined vacation and business visits relating to the company's retail business. I do not now recall the dates and places of all of my visits, but I have visited New York, Los Angeles, Phoenix, Kansas, San Francisco, and Orlando.

6. I own no real property in the United States. I also have no bank accounts, and have no investments in the United States. The company that I work for sells some products manufactured by several other companies in the United States.

7. I do not subscribe to or read either the *International Herald Tribune* or the *Al Quds al Arabi*. The latter publication, to my knowledge, is banned in the Kingdom of Saudi Arabia.

8. I have never supported the loss of innocent life and believe that there is no justification for the tragic attacks of September 11, 2001. I have never supported any person or organization that I have known to participate in terrorist activities.

9. The Third Amended Complaint in this case has no allegations about me, other than the statement in Paragraph 228 that I and several other individuals were "co-conspirators, aiders and abettors" of the Benevolence International Foundation. I briefly served as a board member of the Benevolence International Foundation, from about 1993 to 1994, but I resigned after the troops from the former Soviet Union withdrew from Afghanistan. I never had any active role as an officer or employee of the Benevolence International Foundation. During the brief period that I was a board member, I did not discuss any issues relating to my service with my cousin, Adel Batterjee. Although I made some donations to the Benevolence International

Foundation when it was located in Saudi Arabia, prior to 1992, I did not do so after it moved to the United States in 1992. I did not have any involvement with the activities of the Benevolence International Foundation that are set forth in the Third Amended Complaint, since those activities did not occur while I was associated with that organization.

10. I can read and understand English.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Shahir A. Batterjee

Executed on the 7 day of April, 2004.

Exhibit 2

Shahir A. Batterjee's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)



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The "formal method" of service is the generally recommended method of service, particularly in countries that are signatories to an international treaty, such as the *Hague Service Convention*. This method is needed if it is anticipated that enforcement of judgment will be required.

The *Hague Service Convention* set forth the international rules related to service of process outside the originating country. Each nation that belongs to the *Hague Service Convention* agrees to abide by these international rules.

Letters Rogatory is the formal method to be used in countries that are not signers of the Hague Service Convention. In addition, the *Inter-American Convention on Letters Rogatory* controls the same issues between countries in North and South America. *Letters Rogatory* is also used when taking the deposition of a person in another jurisdiction.

The timeframe for service pursuant to formal methods can range from 1 to 5 months since proper procedures and/or diplomatic channels must be followed (typical turnaround time in most nations is 2-3 months). Costs are significantly *lower* than in informal service in most countries.

Generally, we recommend the formal method of service to insure a valid judgment.

No matter which method you choose, **we handle the paperwork and logistics in completing the service** in a timely and efficient manner. **We do everything** from preparing the letter of transmittal to the translation of your filed documents, as required.

Informal Methods:

Informal methods of service are available in most areas of the world where service by a non-attorney or private process server are . In general, if the country is not a signatory of an international treaty, service may be made by informal methods (similar to service in the United States). However, some countries such as Germany, Japan, Korea, China, Switzerland and Italy do not allow service by private process server and impose serious civil and criminal sanctions on those who violate their national sovereignty.

The advantage to utilizing informal service, in nations where it is available, is often the timeframe for completing service.

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Note: These descriptions of service options are presented in general terms. **We will be pleased to provide specific information regarding service in a particular country.**

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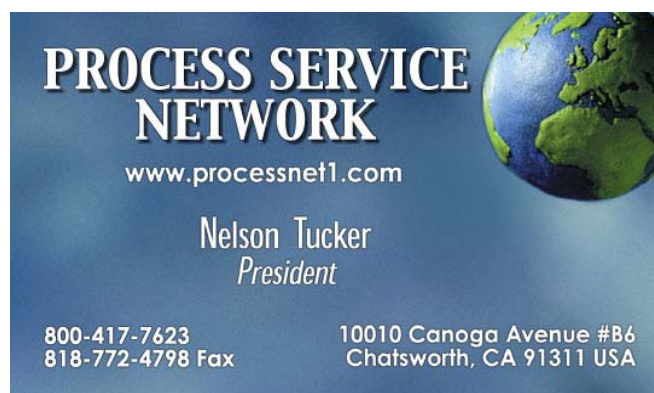
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¹ Lowest rate of any top 10 international service company. Guaranteed service means we will serve the documents at the address provided, if service is legally possible. Dated documents may require a re-set of the court date if unable to serve in time, in which case there will not be an additional charge. Additional charge will apply for additional addresses. In rare cases, some countries may impose additional fees that have not been announced prior to service. Such fees will be the responsibility of the attorney requesting service.



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Exhibit 3

Shahir A. Batterjee's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)



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Saudi Arabia

Process Service Network is one of a few firms that specializes in international service of process and offers competitive rates on foreign services. Here is a summary of the methods available for service outside the United States and a specific proposal for the requested nation.

Our job is to cut through the bureaucracy and red tape to get the service completed with as little delay as possible. Since we have been in business for 26 years, we have developed close working relationships with key individuals in most countries throughout the world. The founder and President of *Process Service Network* was a Political Science major in college with a focus on international relations and is actively involved in a worldwide organization through which he has developed business and personal relationships in over 80 nations worldwide.

FORMAL SERVICE:

SAUDI ARABIA is not a signer of the Hague Service Convention. There is currently no formal method of service since Saudi Arabia does not honor Letters Rogatory.

INFORMAL SERVICE:

Private process servers may serve documents in most countries, whether a signer of *The Hague Service Convention*, or not. Service is normally handled in a manner similar to methods used in the United States, although completion of the service usually takes longer. Customs and traditions in other countries tend to lead to a slower pace and less rigid work habits, particularly in the Arab nations. Service sometimes may take several months but informal service is generally much faster than formal methods. Most process servers who we employ are off-duty police officers or other government officials who are able to, in certain cases, exercise their official capacity to complete the service. Since we pay the process server a bonus (at our own expense) for prompt

service, the normal delays are usually reduced.

It must be advised, however, that corruption is sometimes evident in that country and that it is common for the process server to contrive an excuse for delays and/or additional costs. We will cover any additional costs but delays may be unavoidable.

Further, service in Saudi Arabia has been complicated in the recent period due to tensions in the Arab world. We do all that is possible to insure a timely completion of the service.

Advantage: Time and cost.

Disadvantage: Judgment may not be enforceable in the country where assets are located.

TRANSLATIONS:

Some countries require the documents to be translated into the official language of the nation where they are to be served. The U.S. State Department *recommends* translation, but it is not a requirement unless the formal method is used. It is possible, although rare, that a demurer could be filed based upon lack of understanding by the defendant as to the nature and meaning of untranslated documents. It is important that the Defendant understand the nature of the documents.

COSTS:

Service of process:

Informal = \$1175.00 All fees are per defendant/address

Translation: \$0.38 per word (proper nouns not translated)

DECLARATIONS:

We provide any necessary formal Declarations, under penalty of perjury, that the Court may require as to the progress and status of the service (at no additional cost).

WARNING: Beware of companies that quote suspiciously low rates. They often come back later with an excuse for an additional charge. Our rates are firm for one address quoted. Other companies are actually brokerage firms or website developers, not process service agencies, who farm out assignments to secondary companies that are not knowledgeable or qualified on international service of process.

DISCLAIMER:

The information contained herein is provided for general information only and may not be accurate at the time of service in a particular case or country. Questions involving specific services should be directed to our office. Care should be exercised in choosing the method of service (formal/informal) if eventual enforcement of a U.S. judgment is anticipated in the country where the documents are to be served. No legal advice is intended in the statements contained herein. Assignments for international service of process are accepted on the basis that the assigning law firm has researched all applicable laws. Process Service Network and its agents assume no liability for its actions in the course of any phase of the service of process assignment.



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